



CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

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David B. Cohen
Mayor

DATE: September 22, 2006

TO: Ald. Brian E. Yates, Chairman, and
Members of the Zoning and Planning Committee
Planning and Development Board

FROM: Michael Kruse, Director of Planning and Development
Juris Alksnitis, Chief Zoning Code Official

SUBJECT: ***Update regarding PETITION #102-06 of KESSELER DEVELOPMENT, LLC***
PETITION #102-06 Proposes to amend Section 30-15, Table 1, *Density & Dimensional Controls in Residential Districts and for Residential Uses*, by inserting in Table 1 a new Footnote (9) providing for a higher multi residence structure in the MR3 zone up to 4 stories and 48 ft. in height, subject to special permit and certain conditions pertaining to minimum site area, building placement, and setbacks.

CC: Board of Aldermen
Mayor David B. Cohen
Philip B. Herr, Chair, Comprehensive Planning Advisory Committee

RECOMMENDATION: *Approve the 10-acre version of this text amendment that was previously approved by the Zoning and Planning Committee.*

The subject petition is associated with a proposal, which is part of an overall plan to develop a portion of the former Boston Edison land, also known as Kessler Woods. As discussed in prior Planning and Development Department memoranda dated March 14, 2006, June 12, 2006, and June 22, 2006, the petitioner has filed three petitions dealing with elements pertaining to: amending the Newton Zoning Ordinance (#102-06), rezoning the subject site from SR-3 to MR-3 (#102-06(2)), and seeking a special permit for multi-family and attached dwelling units (#102-06(3)). Following extensive deliberations and re-hearings, on September 19, 2006, the Land Use Committee of the Board of Aldermen approved items #102-06(2) and #102-06(3) in Committee and voted to refer these items for vote by the full Board session on October 3, 2006. As detailed below, petition #102-06 was recommitted to the Zoning and Planning Committee and scheduled for another public hearing on September 25, 2006.

1. STATUS OF ITEM #102-06

Initially heard on March 14, 2006, this item was recommitted by the Board of Aldermen to the Zoning and Planning Committee on April 18, 2006 (***Zoning and Planning approved this item on April 10, 2006 with the addition of Multi-Residence 4 setbacks by a vote of 4-2-1***). Anticipating that the 90-day period would expire on June 12, 2006, the petition was reheard on this date in

restated form, initiating a new 90-day period expiring on September 10, 2006. It is noted that the Planning Board has voted out this item twice – on April 3, 2006 and June 12, 2006, each time supporting the recommendation of the Planning and Development Department, as articulated in the memoranda referenced above.

Following a number of working sessions, the Zoning and Planning Committee approved a version of the restated petition for vote by the full Board of Aldermen (***Zoning and Planning approved this item on July 20, 2006 by a vote of 4-1***). However, while the Board failed to approve the ZAP proposal on August 14, 2006, the Board did agree to reconsider the item on September 5, 2006. At that time, the full Board again recommitted the item to ZAP. As the then current 90-day period would shortly expire on September 10, 2006, the subject item was also scheduled for yet another (the third) public hearing on September 25, 2006.

The current restated petition, as most recently approved by ZAP, now includes the superimposed building placement buffer requirements (150 ft. from street and 75 ft. from abutting properties) along with the proposed increased setbacks (50 ft.) and a minimum lot area of 10 acres.

The following was advertised in the most recent public notice:

(9) allow by special permit in a Multi-Residence 3 District a multi-family dwelling structure to have a maximum building height of 48 feet and a maximum number of stories of 4, provided that there is a minimum lot size of 10 acres, the distance from the street to such multi-family dwelling structure is no less than 150 feet and the distance between such structure and abutting properties is no less than 75 feet; and the front, side and rear setbacks for the lot are 50 feet from the lot line.

OR

(9) allow by special permit in a Multi-Residence 3 District a multi-family dwelling structure to have a maximum building height of 48 feet and a maximum number of stories of 4, provided that there is a minimum lot size of 3 acres, the distance from the street to such multi-family dwelling structure is no less than 150 feet and the distance between such structure and abutting properties is no less than 75 feet; and the front, side and rear setbacks for the lot are 50 feet from the lot line.

It is noted that while the 10-acre version reflects the most recent language ultimately passed by the Zoning and Planning Committee, the 3-acre alternative was also included in the public notice on advice of the City's Law Department.

2. CONCLUSION/ RECOMMENDATION

The Planning Department has articulated its concerns, suggestions and recommendations in the several memoranda referenced above. While the Department continues to believe that its analysis is valid, all things considered, we would ***recommend that the Board of Aldermen adopt the 10-acre version previously approved by the Zoning and Planning Committee.*** The Planning Department recommends the 10-acre version as a first step toward making a more restrictive change at a later time. We will plan to monitor other such requests for special permit in a Multi-Residence 3 District with multi-family dwelling structures having a height of 48 feet and four stories, and will inform the Committee of any further suggestions for modifying this change to the Zoning Ordinance, if approved by the Board. At a later time, the Planning Department may suggest that the Board of Aldermen consider placing this information within the body of Table 1 consistent with existing format. This may help users better navigate the Zoning Ordinance, avoid yet another unduly complex footnote, and facilitate better understanding of the applicable requirements.